

MEETING MINUTES, BOARD OF ZONING APPEALS, DECEMBER 10, 2007

Present: Phil Tinkle, Mike Campbell, Shan Rutherford, Ken Knartzer, Shawna Koons-Davis, City Attorney, William Peeples, Senior Planner; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

PREVIOUS MINUTES

November 14th – Rutherford moved to approve the minutes as mailed, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

FINDINGS OF FACT

Docket V2007-016 – Use Variance – Challenger Newspaper – Knartzer moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-016, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2007-026 – Special Exception – Clark-Pleasant School – Campbell moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-026, seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2007-027 – Dimensional Variance – LA Fitness – Rutherford moved that in consideration of the statutory criteria that we adopt the written Findings of Fact as presented, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-027, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

OLD BUSINESS

Docket V2007-021 – Sign Variance – O-Charley's – located at 866 S. St. Rd. 135 – request to allow a 12.75 sq. ft. projecting sign – O'Charley's, Inc., owner; Site Enhancement Services, representing.

A written request has been received asking for withdrawal of this petition. Knartzer moved to approve the withdrawal of V2007-021, seconded by Campbell. Vote for **approval** of the request for **withdrawal** was unanimous, 4-0. **Motion carried.**

Docket V2007-028 – Sign Variance – Community Church of Greenwood – located at 1477 W. Main St. – request to allow freestanding ground sign with an area of 106 sq. ft. and a height of 7 ft. – Community Church of Greenwood, applicant and owner.

Roger Hall, Community Church of Greenwood, came forward and was sworn.

The sign is replacing an existing sign. The proposed sign is a little larger than the existing sign.

The petitioner addressed the statutory criteria as follows:

Variance request for 106 sq. ft. sign:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** The sign would be set back 130 feet from the right-of-way of Main Street and be parallel to the direction of travel.

2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The property is currently improved with 75 sq. ft. sign which is perpendicular to the direction of travel. The replacement of that sign with the proposed sign would be more consistent with the architectural style of the existing buildings and be less obtrusive due to the orientation of the sign with respect to Main Street.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The Sign Code anticipates the location of a sign at, or near, the minimum setback from the right-of-way. Since this site has some unique characteristics which require a set back of 130 feet, the impact of the sign would be similar to that of a 32 sq. ft. sign located 10 feet from the right-of-way as provided for in the Code.
4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because **Answer:** The property is outside the airspace overlay district and is located 17,005 feet from the runway of the nearest public use airport.

Knartzer – unique characteristics requiring sign to set back farther from the roadway.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Knartzer moved that based on the evidence presented that the Board approve the granting of a dimensional variance to allow a 106 sq. ft. sign for Community Church of Greenwood located at 1477 W. Main St. with the following conditions:

1. The existing sign, approved under V-27-93 by the Johnson County Board of Zoning Appeals, shall be removed concurrently with the installation of this proposed sign.
2. The sign shall be set back 130 feet from the right-of-way of Main St.

Seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Variance request for 7-foot sign height:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** The sign would be set back 130 feet from the right-of-way of Main Street and be parallel to the direction of travel.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The property is currently improved with a sign that is 8' in height. Additionally, only the portion of the sign containing the "logo" for the church would be at 7' in height. The remainder of the sign would be very near the 4' restriction of the Code.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The Sign Code anticipates the location of a sign at, or near, the minimum setback from the right-of-way. Since this site has some unique characteristics which require a setback of 130 feet, the impact of the sign would be similar to that of a 32-sq. ft. sign located 10 feet from the right-of-way as provided for in the code.

4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because
Answer: The property is outside the airspace overlay district and is located 17,005 feet from the runway of the nearest public use airport.

Knartzer asked if the new sign would include room for LED messaging since the existing sign has it. Hall stated that there will be no room for messaging on the new sign.

Rutherford moved that based on the evidence presented that the Board approve the granting of a dimensional variance to allow a 7' tall sign for Community Church of Greenwood located at 1477 W. Main St., seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Campbell moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decisions on all the variance requests presented in Variance Petition Number V2007-028, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2007-029 – Sign Variance – Greenwood Park Mall – located at 1251 N. U.S. 31 – request to allow two changeable copy wall signs with advertising of products, services or businesses (one on wall elevation near entrance to food court and one on wall elevation near JC Penney entrance) – Simon Property Group, owner.

Joe Calderon, Bose, McKinney & Evans Attorneys; Bob Gorman, Simon Properties, and Kelly Mikesel, V. President with Simon Properties; came forward and were sworn.

Booklets with colored renderings of the proposed signs were distributed for the Board's review. The proposed signs will be changeable copy that will advertise items that are available throughout the mall, not just at the store where the sign will be located.

The statutory criteria was addressed by Attorney Calderon as follows:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** The request seeks to establish signs consistent with the Ordinance with the exception that they advertise products, services or businesses available at the mall instead of advertising only a business at the mall. The impact on the public health, safety and general morals of the community would be in no way different than if similar signs were located on the facades of the mall in compliance with the identification requirements.
2. **Criteria:** The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. **Answer:** The use and value of property in proximity to the enclosed mall is interrelated to success of the mall. By encouraging a more vibrant retail atmosphere at the Mall, the long term stability of the Regional Shopping Center District is more "concrete" and the use and value of adjacent properties is maintained.
3. **Criteria:** The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. **Answer:** The Sign Code does not completely recognize the role of the enclosed mall in "setting the standard" for the Regional Shopping Center District, and, therefore, encourages an extremely conservative signage program that limits the ability to create a vibrant retail atmosphere in proximity of the mall. While the City, as a rule, prefers a conservative approach to signage, we do recognize that the Regional Shopping Center District is an anomaly in this policy and should be encouraged to attain a vibrant, exciting character.

4. **Criteria:** The proposed structure is not regulated under Indiana Code 8-21-10 because
Answer: Because while a portion of the property is within the Airspace Zoning District, the property is 9,079 feet from the runway of the nearest public use airport and these signs would be located on an existing building.

Tinkle inquired if the petitioners would be coming back at a later date to request approval of more signs. Mikesel replied that they could if these signs are successful. Tinkle then expressed concern about the proposed advertising being "tasteful" – who will monitor it? Mikesel replied that the Mall management will approve all advertising that is placed on the signs.

Knartzer asked if the signs will be lit. The signs are not illuminated.

Campbell pointed out that the sign near the Food Court won't be visible from the parking lot.

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Rutherford moved that based on the evidence presented that the Board approve the granting of a dimensional variance to allow 2 changeable copy wall signs for Greenwood Park Mall located at 1251 N. U.S. 31, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Campbell moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decisions on all the variance requests presented in Variance Petition Number V2007-021, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

ANNOUNCEMENTS/REPORTS

Tinkle thanked everyone for their help and cooperation during the past year.

Campbell moved to adjourn, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.** Meeting was adjourned at 6:36 p.m.

JANICE NIX
Recording Secretary

PHIL TINKLE
Chairman